

By: Hughes
(Flynn)

S.B. No. 1052

Substitute the following for S.B. No. 1052:

By: Dean

C.S.S.B. No. 1052

A BILL TO BE ENTITLED

AN ACT

relating to debt cancellation agreements offered in connection with certain retail installment contracts and leases for vehicles and deferred payments under motor vehicle retail installment contracts; providing for a civil penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 345.005, Finance Code, is amended to read as follows:

Sec. 345.005. ITEMIZED CHARGE. An amount charged to a retail buyer in a retail installment contract or retail charge agreement is an itemized charge if the amount is not included in the cash price and is the amount of:

(1) fees prescribed by law for filing, recording, or otherwise perfecting, releasing, or satisfying a security interest created in connection with a retail installment transaction or nonfiling insurance premiums as authorized by Section 345.212;

(2) fees for registration or a certificate of title;

(3) any taxes;

(4) fees or charges prescribed by law and connected with the sale or inspection of the goods or services subject to the contract or agreement;

(5) premiums and other charges for insurance authorized by Subchapter E;

(6) official fees for a construction permit or the

1 filing or recording of a construction permit;

2 (7) a documentary fee authorized under Section
3 345.251; ~~and~~

4 (8) in a retail installment transaction involving
5 modernization, rehabilitation, repair, alteration, improvement, or
6 construction of real property, reasonable and necessary costs,
7 including amounts, paid by the holder:

8 (A) for title insurance or title examination and
9 opinion that does not exceed the amount set by the commissioner of
10 insurance for title insurance for the transaction;

11 (B) to a person who is not a salaried employee of
12 the holder for an appraisal or inspection or for investigating the
13 credit standing or creditworthiness of the retail buyer; or

14 (C) to an attorney who is not a salaried employee
15 of the holder as a legal fee for the preparation of documents in
16 connection with the transaction; and

17 (9) charges for a debt cancellation agreement under
18 Chapter 354.

19 SECTION 2. Subchapter B, Chapter 345, Finance Code, is
20 amended by adding Section 345.084 to read as follows:

21 Sec. 345.084. DEBT CANCELLATION AGREEMENT. A debt
22 cancellation agreement under Chapter 354 may be offered in
23 connection with a retail installment contract for a covered vehicle
24 to which this chapter applies. For purposes of this section,
25 "covered vehicle" has the meaning assigned by Section 354.001.

26 SECTION 3. Section 348.114, Finance Code, is amended by
27 amending Subsection (a) and adding Subsection (c) to read as

1 follows:

2 (a) If a retail installment contract that provides for a
3 time price differential that is computed using the add-on method or
4 the scheduled installment earnings method is amended to defer all
5 or a part of one or more installments for not longer than three
6 months, the holder may collect from the retail buyer:

7 (1) a deferment charge in an amount computed on the
8 amount deferred for the period of deferment at a rate that does not
9 exceed the effective return for time price differential permitted
10 for a monthly payment retail installment contract; and

11 (2) the amount of the additional cost to the holder
12 for:

13 (A) premiums for continuing in force any
14 insurance coverages provided for by the contract; and

15 (B) any additional necessary official fees.

16 (c) If a retail installment contract that provides for a
17 time price differential that is computed using the true daily
18 earnings method is amended to defer all or a part of one or more
19 installments, the holder may charge and receive from the retail
20 buyer time price differential on the unpaid balance of the contract
21 at the rate agreed to in the contract. At the time of deferment, the
22 holder must provide the following written notice to the retail
23 buyer that is boldfaced, capitalized, or underlined or otherwise
24 conspicuously set out from any surrounding written material:
25 "FINANCE CHARGES WILL CONTINUE TO ACCRUE ON THE UNPAID BALANCE AT
26 THE CONTRACT RATE. BY DEFERRING ONE OR MORE INSTALLMENTS, YOU WILL
27 PAY MORE FINANCE CHARGES THAN ORIGINALLY DISCLOSED." A holder does

1 not collect a deferment charge by the accrual of time price
2 differential on the unpaid balance of the contract.

3 SECTION 4. Section 348.124(a), Finance Code, is amended to
4 read as follows:

5 (a) In connection with a retail installment transaction
6 under this chapter, a retail seller may offer to the retail buyer a
7 debt cancellation agreement, including a guaranteed asset
8 protection waiver or similarly named agreement. If the retail
9 installment transaction requires insurance coverage as part of the
10 retail buyer's responsibility to the holder, the debt cancellation
11 agreement, guaranteed asset protection waiver, or similarly named
12 agreement must be offered under Chapter 354. The retail seller may
13 not require that the purchase of a debt cancellation agreement by
14 the retail buyer be made in order to enter into a retail installment
15 transaction.

16 SECTION 5. Section 348.208(b), Finance Code, is amended to
17 read as follows:

18 (b) A retail installment contract may include as a separate
19 charge an amount for:

20 (1) motor vehicle property damage or bodily injury
21 liability insurance;

22 (2) mechanical breakdown insurance;

23 (3) participation in a motor vehicle theft protection
24 plan;

25 (4) insurance to reimburse the retail buyer for the
26 amount computed by subtracting the proceeds of the buyer's basic
27 collision policy on the motor vehicle from the amount owed on the

1 vehicle if the vehicle has been rendered a total loss;

2 (5) a warranty or service contract relating to the
3 motor vehicle;

4 (6) an identity recovery service contract; or

5 (7) a debt cancellation agreement, including a debt
6 cancellation agreement under Chapter 354, if the agreement is
7 included as a term of a retail installment contract under Section
8 [348.124](#).

9 SECTION 6. Subchapter G, Chapter [348](#), Finance Code, is
10 redesignated as Chapter 354, Finance Code, and amended to read as
11 follows:

12 CHAPTER 354 [SUBCHAPTER G]. [CERTAIN] DEBT CANCELLATION AGREEMENTS
13 FOR CERTAIN RETAIL VEHICLE INSTALLMENT SALES

14 Sec. 354.001. DEFINITIONS. In this chapter:

15 (1) "Contract" means a retail installment contract
16 made under Chapter [345](#) or [348](#).

17 (2) "Covered vehicle" includes a self-propelled or
18 towed vehicle designed for personal use, including an automobile,
19 truck, motorcycle, recreational vehicle, all-terrain vehicle,
20 snowmobile, camper, boat, personal watercraft, and personal
21 watercraft trailer.

22 (3) "Debt cancellation agreement" means a contract
23 term or a contractual arrangement modifying a contract term under
24 which a retail seller or holder agrees to cancel all or part of an
25 obligation of the retail buyer to repay an extension of credit from
26 the retail seller or holder on the occurrence of the total loss or
27 theft of the covered vehicle that is the subject of the contract but

1 does not include an offer to pay a specified amount on the total
2 loss or theft of the covered vehicle.

3 (4) "Holder" means a person who is:

4 (A) a retail seller; or

5 (B) the assignee or transferee of a contract.

6 (5) "Retail buyer" means a person who purchases or
7 agrees to purchase a covered vehicle from a retail seller in a
8 retail installment transaction.

9 (6) "Retail seller" means a person in the business of
10 selling covered vehicles to retail buyers in retail installment
11 transactions.

12 Sec. 354.002 [~~348.601~~]. LIMITATION ON CERTAIN DEBT
13 CANCELLATION AGREEMENTS. (a) This chapter [~~subchapter~~] applies
14 only to a debt cancellation agreement that includes insurance
15 coverage as part of the retail buyer's responsibility to the
16 holder.

17 (b) The amount charged for a debt cancellation agreement
18 made in connection with a [~~retail installment~~] contract may not
19 exceed five percent of the amount financed pursuant to the [~~retail~~
20 ~~installment~~] contract. Section 348.124(c) does not apply to a debt
21 cancellation agreement regulated under this chapter [~~subchapter~~].

22 (c) The debt cancellation agreement becomes a part of or a
23 separate addendum to the [~~retail installment~~] contract and remains
24 a term of the [~~retail installment~~] contract on the assignment,
25 sale, or transfer by the holder.

26 (d) A debt cancellation agreement to which this chapter
27 applies is not insurance.

1 Sec. 354.003 [~~348.602~~]. DEBT CANCELLATION AGREEMENTS
2 EXCLUSION LANGUAGE. (a) In addition to the provisions required by
3 Section 354.004 [~~348.603~~], a debt cancellation agreement must fully
4 disclose all provisions permitting the exclusion of loss or damage
5 including, if applicable:

6 (1) an act occurring after the original maturity date
7 or date of the holder's acceleration of the [~~retail installment~~]
8 contract;

9 (2) any dishonest, fraudulent, illegal, or
10 intentional act of any authorized driver that directly results in
11 the total loss of the covered [~~motor~~] vehicle;

12 (3) any act of gross negligence by an authorized
13 driver that directly results in the total loss of the covered
14 [~~motor~~] vehicle;

15 (4) conversion, embezzlement, or concealment by any
16 person in lawful possession of the covered [~~motor~~] vehicle;

17 (5) lawful confiscation by an authorized public
18 official;

19 (6) the operation, use, or maintenance of the covered
20 [~~motor~~] vehicle in any race or speed contest;

21 (7) war, whether or not declared, invasion,
22 insurrection, rebellion, revolution, or an act of terrorism;

23 (8) normal wear and tear, freezing, or mechanical or
24 electrical breakdown or failure;

25 (9) use of the covered [~~motor~~] vehicle for primarily
26 commercial purposes;

27 (10) damage that occurs after the covered [~~motor~~]

vehicle has been repossessed;

(11) damage to the covered ~~[motor]~~ vehicle before the purchase of the debt cancellation agreement;

(12) unpaid insurance premiums and salvage, towing, and storage charges relating to the covered ~~[motor]~~ vehicle;

(13) damage related to any personal property attached to or within the covered ~~[motor]~~ vehicle;

(14) damages associated with falsification of documents by any person not associated with the retail seller or other person canceling the retail buyer's obligation;

(15) any unpaid debt resulting from exclusions in the retail buyer's primary physical damage coverage not included in the debt cancellation agreement;

(16) abandonment of the covered ~~[motor]~~ vehicle by the retail buyer only if the retail buyer voluntarily discards, leaves behind, or otherwise relinquishes possession of the covered ~~[motor]~~ vehicle to the extent that the relinquishment shows intent to forsake and desert the covered ~~[motor]~~ vehicle so that the covered ~~[motor]~~ vehicle may be appropriated by any other person;

(17) any amounts deducted from the primary insurance carrier's settlement due to prior damages; and

(18) any loss occurring outside the United States or outside the United States and Canada.

(b) An exclusion of loss or damage not listed in Subsection (a) may be included in a debt cancellation agreement only if the exclusion is disclosed in plain, easy to read language.

Sec. 354.004 ~~[348.603]~~. REQUIRED DEBT CANCELLATION

1 AGREEMENT LANGUAGE. A debt cancellation agreement must state:

2 (1) the contact information of the retail seller, the
3 holder, and any administrator of the agreement;

4 (2) the name and address of the retail buyer;

5 (3) the cost and term of the debt cancellation
6 agreement;

7 (4) the procedure the retail buyer must follow to
8 obtain benefits under the terms of the debt cancellation agreement,
9 including a telephone number and address where the retail buyer may
10 provide notice under the debt cancellation agreement;

11 (5) the period during which the retail buyer is
12 required to notify the retail seller, the holder, or any
13 administrator of the agreement~~[7]~~ of any potential loss under the
14 debt cancellation agreement for total loss or theft of the covered
15 ~~[motor]~~ vehicle;

16 (6) that in order to make a claim, the retail buyer
17 must provide or complete some or all of the following documents and
18 provide those documents to the retail seller, the holder, or any
19 administrator of the agreement:

20 (A) a debt cancellation request form;

21 (B) proof of loss and settlement payment from the
22 retail buyer's primary comprehensive, collision, or uninsured or
23 underinsured motorist policy or other parties' liability insurance
24 policy for the settlement of the insured total loss of the covered
25 ~~[motor]~~ vehicle;

26 (C) verification of the retail buyer's primary
27 insurance deductible;

1 (D) a copy of any police report filed in
2 connection with the total loss or theft of the covered [~~motor~~]
3 vehicle; and

4 (E) a copy of the damage estimate;

5 (7) that documentation not described by Subdivision
6 (6) or required by the retail seller, the holder, or any
7 administrator of the agreement is not required to substantiate the
8 loss or determine the amount of debt to be canceled;

9 (8) that notwithstanding the collection of the
10 documents under Subdivision (6), on reasonable advance notice the
11 retail seller, the holder, or any administrator of the agreement
12 may inspect the retail buyer's covered [~~motor~~] vehicle;

13 (9) that the retail seller or holder will cancel all or
14 part of the retail buyer's obligation as provided in the debt
15 cancellation agreement on the occurrence of total loss or theft of
16 the covered [~~motor~~] vehicle;

17 (10) the method to be used to calculate refunds;

18 (11) the method for calculating the amount to be
19 canceled under the debt cancellation agreement on the occurrence of
20 total loss or theft of a covered [~~motor~~] vehicle;

21 (12) that purchase of a debt cancellation agreement is
22 not required for the retail buyer to obtain an extension of credit
23 and will not be a factor in the credit approval process;

24 (13) that in order to cancel the debt cancellation
25 agreement and receive a refund, the retail buyer must provide a
26 written request to cancel to the retail seller, the holder, or any
27 administrator of the agreement;

1 (14) that if total loss or theft of the covered ~~[motor]~~
2 vehicle has not occurred, the retail buyer has 30 days from the date
3 of the ~~[retail installment]~~ contract or the issuance of the debt
4 cancellation agreement, whichever is later, or a longer period as
5 provided under the debt cancellation agreement, to cancel the debt
6 cancellation agreement and receive a full refund;

7 (15) that the retail buyer may file a complaint with
8 the commissioner, and include the address, phone number, and
9 Internet website of the Office of Consumer Credit Commissioner; and

10 (16) that the holder will cancel certain amounts under
11 the debt cancellation agreement for total loss or theft of a covered
12 ~~[motor]~~ vehicle, in the following or substantially similar
13 language: "YOU WILL CANCEL CERTAIN AMOUNTS I OWE UNDER THIS
14 CONTRACT IN THE CASE OF A TOTAL LOSS OR THEFT OF THE COVERED VEHICLE
15 AS STATED IN THE DEBT CANCELLATION AGREEMENT."

16 Sec. 354.005 ~~[348.604]~~. APPROVAL OF FORMS FOR DEBT
17 CANCELLATION AGREEMENTS. (a) Debt cancellation agreement forms
18 must be submitted to the commissioner for approval. Debt
19 cancellation agreement forms may include additional language to
20 supplement the terms of the debt cancellation agreement as required
21 by this chapter ~~[subchapter]~~.

22 (b) If a debt cancellation agreement form is provided to the
23 commissioner for approval, the commissioner has 45 days to approve
24 the form or deny approval of the form. On the written request of the
25 person submitting the form, the commissioner may agree in writing
26 to extend the approval period for an additional 45 days. If after
27 the 45th day, or the 90th day if the commissioner agrees to an

1 extension, the commissioner does not deny the form, the form is
2 considered approved.

3 (c) If the debt cancellation agreement form is approved by
4 the commissioner or considered approved as provided by Subsection
5 (b), the terms of the debt cancellation agreement are considered to
6 be in compliance with this chapter [~~subchapter~~].

7 (d) The commissioner may deny approval of a form only if the
8 form excludes the language required by Sections 354.003 [~~348.602~~]
9 and 354.004 [~~348.603~~] or contains any inconsistent or misleading
10 provisions. All form denials may be appealed to the finance
11 commission.

12 (e) If after approval of a form the Office of Consumer
13 Credit Commissioner discovers that approval could have been denied
14 under Subsection (d), the commissioner may order a retail seller,
15 any administrator of the debt cancellation agreement, or a holder
16 to submit a corrected form for approval. Beginning as soon as
17 reasonably practicable after approval of the corrected form, the
18 retail seller, administrator, or holder shall use the corrected
19 form for all sales.

20 (f) A debt cancellation agreement form that has been
21 approved by the commissioner is public information subject to
22 disclosure under Chapter 552, Government Code. Section 552.110,
23 Government Code, does not apply to a form approved under this
24 chapter [~~subchapter~~].

25 Sec. 354.006 [~~348.605~~]. ADDITIONAL REQUIREMENTS FOR DEBT
26 CANCELLATION AGREEMENTS. (a) If a retail buyer purchases a debt
27 cancellation agreement, the retail seller must provide to the

1 retail buyer a true and correct copy of the agreement not later than
2 the 10th day after the date of the [~~retail installment~~] contract.

3 (b) A holder must comply with the terms of a debt
4 cancellation agreement not later than the 60th day after the date of
5 receipt of all necessary information required by the holder or
6 administrator of the agreement to process the request.

7 (c) A debt cancellation agreement may not knowingly be
8 offered by a retail seller if:

9 (1) the [~~retail installment~~] contract is already
10 protected by gap insurance; or

11 (2) the purchase of the debt cancellation agreement is
12 required for the retail buyer to obtain the extension of credit.

13 (d) This section does not apply to a debt cancellation
14 agreement offered in connection with the purchase of a commercial
15 vehicle.

16 (e) The sale of a debt cancellation agreement must be for a
17 single payment.

18 (f) A holder that offers a debt cancellation agreement must
19 report the sale of and forward money received on all such agreements
20 to any designated party as prescribed in any applicable
21 administrative services agreement, contractual liability policy,
22 other insurance policy, or other specified program documents.

23 (g) Money received or held by a holder or any administrator
24 of a debt cancellation agreement and belonging to an insurance
25 company, holder, or administrator under the terms of a written
26 agreement must be held by the holder or administrator in a fiduciary
27 capacity.

(h) A retail seller that negotiates a debt cancellation agreement and subsequently assigns the contract shall:

(1) maintain documents relating to the agreement that come into the retail seller's possession; and

(2) on request of the Office of Consumer Credit Commissioner, cooperate in requesting and obtaining access to documents relating to the agreement not in the retail seller's possession.

Sec. 354.007 [~~348.606~~]. REFUND FOR DEBT CANCELLATION AGREEMENTS. (a) A refund or credit of the debt cancellation agreement fee must be based on the earliest date of:

(1) the prepayment of the [~~retail installment~~] contract in full before the original maturity date;

(2) a demand by the holder for payment in full of the unpaid balance or acceleration;

(3) a request by the retail buyer for cancellation of the debt cancellation agreement; or

(4) the total denial of a debt cancellation request based on one of the exclusions listed in Section 354.003 [~~348.602~~], except in the case of a partial loss of the covered [~~motor~~] vehicle.

(b) The refund or credit for the debt cancellation agreement can be rounded to the nearest whole dollar. A refund or credit is not required if the amount of the refund or credit calculated is less than \$5.

(c) If total loss or theft has not occurred, the retail buyer may cancel the debt cancellation agreement not later than the 30th day after the date of the [~~retail installment~~] contract or the

1 issuance of the debt cancellation agreement, whichever is later, or
2 a later date as provided under the debt cancellation agreement. On
3 cancellation, the holder or any administrator of the agreement
4 shall refund or credit the entire debt cancellation agreement fee.
5 A retail buyer may not cancel the debt cancellation agreement and
6 subsequently receive any benefits under the agreement.

7 (d) A holder may in good faith rely on a computation by any
8 administrator of the agreement of the balance waived, unless the
9 holder has knowledge that the computation is not correct. If a
10 computation by the administrator of the balance waived is not
11 correct, the holder must within a reasonable time of learning that
12 the computation is incorrect make the necessary corrections or
13 cause the corrections to be made to the retail buyer's account.
14 This subsection does not prevent the holder from obtaining
15 reimbursement from the administrator or another responsible for the
16 debt cancellation agreement or computation.

17 (e) If the debt cancellation agreement terminates due to the
18 early termination of the contract, the holder shall, not later than
19 the 60th day after the date the debt cancellation agreement
20 terminates:

21 (1) refund or credit an appropriate amount of the debt
22 cancellation agreement fee; or

23 (2) cause to be refunded or credited an appropriate
24 amount of the debt cancellation agreement fee by providing written
25 instruction to the appropriate person.

26 (f) The holder shall ensure that a refund or credit of an
27 amount of a debt cancellation agreement fee made by another person

under Subsection (e)(2) is made not later than the 60th day after the date the debt cancellation agreement terminates.

(g) The holder shall maintain records of any refund or credit of an amount of a debt cancellation agreement fee made under Subsection (e) and provide electronic access to those records until the later of the fourth anniversary of the date of the contract or the second anniversary of the date of the refund or credit.

SECTION 7. Title 5, Finance Code, is amended by adding Chapter 397 to read as follows:

CHAPTER 397. DEBT CANCELLATION AGREEMENTS FOR CERTAIN VEHICLE LEASES

Sec. 397.001. DEFINITIONS. In this chapter:

(1) "Covered vehicle" includes a self-propelled or towed vehicle designed for personal use, including an automobile, truck, motorcycle, recreational vehicle, all-terrain vehicle, snowmobile, camper, boat, personal watercraft, and personal watercraft trailer.

(2) "Debt cancellation agreement" means a lease term or a contractual arrangement modifying a lease term under which a lessor or holder agrees to cancel all or part of an obligation of the lessee to pay the lessor or holder on the occurrence of the total loss or theft of the covered vehicle that is the subject of the lease but does not include an offer to pay a specified amount on the total loss or theft of the covered vehicle.

(3) "Holder" means a person who is:

(A) a lessor; or

(B) the assignee or transferee of a lease.

1 (4) "Lease" means a lease for a covered vehicle.

2 Sec. 397.002. APPLICABILITY. This chapter does not apply
3 to a lease that is a retail installment transaction under Section
4 345.068 or 348.002.

5 Sec. 397.003. RELATIONSHIP TO INSURANCE. A debt
6 cancellation agreement to which this chapter applies is not
7 insurance.

8 Sec. 397.004. LIMITATION ON CERTAIN DEBT CANCELLATION
9 AGREEMENTS. (a) This chapter applies only to a debt cancellation
10 agreement, including a gap waiver agreement or other similarly
11 named agreement, that includes insurance coverage as part of the
12 lessee's responsibility to the holder.

13 (b) The amount charged for a debt cancellation agreement
14 made in connection with a lease may not exceed five percent of the
15 adjusted capitalized cost financed pursuant to the lease.

16 (c) The debt cancellation agreement becomes a part of or a
17 separate addendum to the lease and remains a term of the lease on
18 the assignment, sale, or transfer by the holder.

19 Sec. 397.005. DEBT CANCELLATION AGREEMENTS EXCLUSION
20 LANGUAGE. (a) In addition to the provisions required by Section
21 397.006, a debt cancellation agreement must fully disclose all
22 provisions permitting the exclusion of loss or damage including, if
23 applicable:

24 (1) an act occurring after the original maturity date
25 or date of the holder's acceleration of the lease;

26 (2) any dishonest, fraudulent, illegal, or
27 intentional act of any authorized driver that directly results in

1 the total loss of the covered vehicle;

2 (3) any act of gross negligence by an authorized
3 driver that directly results in the total loss of the covered
4 vehicle;

5 (4) conversion, embezzlement, or concealment by any
6 person in lawful possession of the covered vehicle;

7 (5) lawful confiscation by an authorized public
8 official;

9 (6) the operation, use, or maintenance of the covered
10 vehicle in any race or speed contest;

11 (7) war, whether or not declared, invasion,
12 insurrection, rebellion, revolution, or an act of terrorism;

13 (8) normal wear and tear, freezing, or mechanical or
14 electrical breakdown or failure;

15 (9) use of the covered vehicle for primarily
16 commercial purposes;

17 (10) damage that occurs after the covered vehicle has
18 been repossessed;

19 (11) damage to the covered vehicle before the purchase
20 of the debt cancellation agreement;

21 (12) unpaid insurance premiums and salvage, towing,
22 and storage charges relating to the covered vehicle;

23 (13) damage related to any personal property attached
24 to or within the covered vehicle;

25 (14) damages associated with falsification of
26 documents by any person not associated with the lessor or other
27 person canceling the lessee's obligation;

1 (15) any unpaid debt resulting from exclusions in the
2 lessee's primary physical damage coverage not included in the debt
3 cancellation agreement;

4 (16) abandonment of the covered vehicle by the lessee
5 only if the lessee voluntarily discards, leaves behind, or
6 otherwise relinquishes possession of the covered vehicle to the
7 extent that the relinquishment shows intent to forsake and desert
8 the covered vehicle so that the covered vehicle may be appropriated
9 by any other person;

10 (17) any amounts deducted from the primary insurance
11 carrier's settlement due to prior damages; and

12 (18) any loss occurring outside the United States or
13 outside the United States and Canada.

14 (b) An exclusion of loss or damage not listed in Subsection
15 (a) may be included in a debt cancellation agreement only if the
16 exclusion is disclosed in plain, easy to read language.

17 Sec. 397.006. REQUIRED DEBT CANCELLATION AGREEMENT
18 LANGUAGE. A debt cancellation agreement must state:

19 (1) the contact information of the lessor, the holder,
20 and any administrator of the agreement;

21 (2) the name and address of the lessee;

22 (3) the cost and term of the debt cancellation
23 agreement;

24 (4) the procedure the lessee must follow to obtain
25 benefits under the terms of the debt cancellation agreement,
26 including a telephone number and address where the lessee may
27 provide notice under the debt cancellation agreement;

1 (5) the period during which the lessee is required to
2 notify the lessor, the holder, or any administrator of the
3 agreement of any potential loss under the debt cancellation
4 agreement for total loss or theft of the covered vehicle;

5 (6) that in order to make a claim, the lessee must
6 provide or complete some or all of the following documents and
7 provide those documents to the lessor, the holder, or any
8 administrator of the agreement:

9 (A) a debt cancellation request form;

10 (B) proof of loss and settlement payment from the
11 lessee's primary comprehensive, collision, or uninsured or
12 underinsured motorist policy or other parties' liability insurance
13 policy for the settlement of the insured total loss of the covered
14 vehicle;

15 (C) verification of the lessee's primary
16 insurance deductible;

17 (D) a copy of any police report filed in
18 connection with the total loss or theft of the covered vehicle; and

19 (E) a copy of the damage estimate;

20 (7) that documentation not described by Subdivision
21 (6) or required by the lessor, the holder, or any administrator of
22 the agreement is not required to substantiate the loss or determine
23 the amount of debt to be canceled;

24 (8) that notwithstanding the collection of the
25 documents under Subdivision (6), on reasonable advance notice the
26 lessor, the holder, or any administrator of the agreement may
27 inspect the lessee's covered vehicle;

1 (9) that the lessor or holder will cancel all or part
2 of the lessee's obligation as provided in the debt cancellation
3 agreement on the occurrence of total loss or theft of the covered
4 vehicle;

5 (10) the method to be used to calculate refunds;

6 (11) the method for calculating the amount to be
7 canceled under the debt cancellation agreement on the occurrence of
8 total loss or theft of a covered vehicle;

9 (12) that purchase of a debt cancellation agreement is
10 not required for the lessee to obtain a lease and will not be a
11 factor in the lease approval process;

12 (13) that in order to cancel the debt cancellation
13 agreement and receive a refund, the lessee must provide a written
14 request to cancel to the lessor, the holder, or any administrator of
15 the agreement;

16 (14) that if total loss or theft of the covered vehicle
17 has not occurred, the lessee has 30 days from the date of the lease
18 or the issuance of the debt cancellation agreement, whichever is
19 later, or a longer period as provided under the debt cancellation
20 agreement, to cancel the debt cancellation agreement and receive a
21 full refund; and

22 (15) that the lessor will cancel certain amounts under
23 the debt cancellation agreement for total loss or theft of a covered
24 vehicle, in the following or substantially similar language: "YOU
25 WILL CANCEL CERTAIN AMOUNTS I OWE UNDER THIS LEASE IN THE CASE OF A
26 TOTAL LOSS OR THEFT OF THE COVERED VEHICLE AS STATED IN THE DEBT
27 CANCELLATION AGREEMENT."

1 Sec. 397.007. ADDITIONAL REQUIREMENTS FOR DEBT
2 CANCELLATION AGREEMENTS. (a) If a lessee purchases a debt
3 cancellation agreement, the lessor must provide to the lessee a
4 true and correct copy of the agreement not later than the 10th day
5 after the date of the lease.

6 (b) A holder must comply with the terms of a debt
7 cancellation agreement not later than the 60th day after the date of
8 receipt of all necessary information required by the holder or
9 administrator of the agreement to process the request.

10 (c) A debt cancellation agreement may not knowingly be
11 offered by a lessor if:

12 (1) the lease is already protected by gap insurance;
13 or

14 (2) the purchase of the debt cancellation agreement is
15 required for the lessee to obtain the lease.

16 (d) This section does not apply to a debt cancellation
17 agreement offered in connection with the lease of a commercial
18 vehicle.

19 (e) The sale of a debt cancellation agreement must be for a
20 single payment.

21 (f) A holder that offers a debt cancellation agreement must
22 report the sale of and forward money received on all such agreements
23 to any designated party as prescribed in any applicable
24 administrative services agreement, contractual liability policy,
25 other insurance policy, or other specified program documents.

26 (g) Money received or held by a holder or any administrator
27 of a debt cancellation agreement and belonging to an insurance

1 company, holder, or administrator under the terms of a written
2 agreement must be held by the holder or administrator in a fiduciary
3 capacity.

4 (h) A lessor that negotiates a debt cancellation agreement
5 and subsequently assigns the lease shall maintain documents
6 relating to the agreement that come into the lessor's possession.

7 Sec. 397.008. REFUND FOR DEBT CANCELLATION AGREEMENTS. (a)
8 A refund or credit of the debt cancellation agreement fee must be
9 based on the earliest date of:

10 (1) the prepayment of the lease in full before the
11 original maturity date;

12 (2) a demand by the holder for payment in full of the
13 unpaid balance or acceleration;

14 (3) a request by the lessee for cancellation of the
15 debt cancellation agreement; or

16 (4) the total denial of a debt cancellation request
17 based on one of the exclusions listed in Section 397.005, except in
18 the case of a partial loss of the covered vehicle.

19 (b) The refund or credit for the debt cancellation agreement
20 can be rounded to the nearest whole dollar. A refund or credit is
21 not required if the amount of the refund or credit calculated is
22 less than \$5.

23 (c) If total loss or theft has not occurred, the lessee may
24 cancel the debt cancellation agreement not later than the 30th day
25 after the date of the lease or the issuance of the debt cancellation
26 agreement, whichever is later, or a later date as provided under the
27 debt cancellation agreement. On cancellation, the holder or any

1 administrator of the agreement shall refund or credit the entire
2 debt cancellation agreement fee. A lessee may not cancel the debt
3 cancellation agreement and subsequently receive any benefits under
4 the agreement.

5 (d) A holder may in good faith rely on a computation by any
6 administrator of the agreement of the balance waived, unless the
7 holder has knowledge that the computation is not correct. If a
8 computation by the administrator of the balance waived is not
9 correct, the holder must within a reasonable time of learning that
10 the computation is incorrect make the necessary corrections or
11 cause the corrections to be made to the lessee's account. This
12 subsection does not prevent the holder from obtaining reimbursement
13 from the administrator or another responsible for the debt
14 cancellation agreement or computation.

15 (e) If the debt cancellation agreement terminates due to the
16 early termination of the lease, the holder shall, not later than the
17 60th day after the date the debt cancellation agreement terminates:

18 (1) refund or credit an appropriate amount of the debt
19 cancellation agreement fee; or

20 (2) cause to be refunded or credited an appropriate
21 amount of the debt cancellation agreement fee by providing written
22 instruction to the appropriate person.

23 (f) The holder shall ensure that a refund or credit of an
24 amount of a debt cancellation agreement fee made by another person
25 under Subsection (e)(2) is made not later than the 60th day after
26 the date the debt cancellation agreement terminates.

27 (g) The holder shall maintain records of any refund or

1 credit of an amount of a debt cancellation agreement fee made under
2 Subsection (e) and provide electronic access to those records until
3 the later of the fourth anniversary of the date of the lease or the
4 second anniversary of the date of the refund or credit.

5 Sec. 397.009. ENFORCEMENT. (a) If the attorney general has
6 reason to believe that a person is engaging in, has engaged in, or
7 is about to engage in any method, act, or practice that is a
8 violation of this chapter, the attorney general may bring an action
9 in the name of the state against the person to restrain the person
10 by temporary restraining order, temporary injunction, or permanent
11 injunction from engaging in the method, act, or practice.

12 (b) An action brought under Subsection (a) may be commenced
13 in the district court of the county in which the person against whom
14 the action is brought resides, has the person's principal place of
15 business, or has done business, in the district court of the county
16 in which any or all parts of the method, act, or practice giving
17 rise to the action occurred, or, on the consent of the parties, in a
18 district court of Travis County. The court may issue a temporary
19 restraining order, temporary injunction, or permanent injunction
20 to restrain or prevent a violation of this chapter and injunctive
21 relief must be issued without bond.

22 (c) In addition to the request for a temporary restraining
23 order, temporary injunction, or permanent injunction, the attorney
24 general may request, and the trier of fact may award, a civil
25 penalty to be paid to the state in an amount of not more than \$20,000
26 per violation.

27 (d) The attorney general may recover reasonable expenses

1 incurred in obtaining injunctive relief or a civil penalty under
2 this section, including reasonable investigative costs, court
3 costs, and attorney's fees.

4 SECTION 8. This Act takes effect September 1, 2017.